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**DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMPENSATION**

Title 40

Labor and Employment

Part I. Workers' Compensation Administration

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RULE

DEPARTMENT OF LABOR OFFICE OF WORKERS' COMPENSATION

Title 40 Labor and Employment Part I. Workers' Compensation Administration

Chapter 9. Safety Requirements

§901. Statutory Requirements

A. Subpart A, 1291(B)(4), Louisiana Statutes as amended, requires every Louisiana employer of more than 15 employees to provide, if self-insured, or is provided by the carrier, if privately insured, plans for implementation of a working and operational safety plan. The plans shall be made available for inspection by the director upon request. The plan shall be privileged and confidential pursuant to R.S. 23:1293, provided that the operational safety plan may be subpoenaed from the employer who shall certify under oath that it is a duplicate of the plan submitted to the director.

B. In order to ensure adequate safety resources for Louisiana employers and employees, the director shall maintain a list of safety professionals/engineers from the private sector, which shall be available upon request by any Louisiana employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, LR 17:176 (February 1991), amended by Department of Labor, LR 19:754 (June 1993).

§903. Definitions

A. Operational Safety Plan. This document of undetermined length will present simply and clearly the program which the employer can follow to reduce accidents in the workplace and incidences of industrial and occupational disease. The safety plan shall comply with applicable local, state and federal safety and health standards or appropriate industry standards. To assist in the development of the components of the safety plan, the employer may utilize: 1) an in-house safety staff; 2) insurance carrier field safety representative; or 3) private sector safety professionals/engineers as identified by a list maintained by the director. The components of a safety plan shall be outlined in §907.

B. Professional Safety Experience. The responsible charge of 75 percent or more of one's duties and functions is for the successful accomplishment of safety objectives such as the analysis, investigation, planning, execution of safety plans, feedback adjustments and the periodic audit of the program. Responsible charge does not imply supervisory responsibility.

*C. Safety Professional/Engineer. This is an active safety practitioner who possesses one or a combination of the following criteria:

1. Graduation from an accredited college or university with a Bachelor's degree in engineering or science, plus five years or more of professional safety experience, of which two or more years shall have been in responsible charge. A Master's degree will be accepted in lieu of one year of the practitioners professional safety experience. An earned Doctoral degree will be accepted in lieu of two years of the practitioners professional safety experience.

2. An earned Associate degree from an accredited college or university in engineering or science plus eight years or more professional safety experience.

3. Ten years of professional safety experience in lieu of an engineering or science degree.

4. Professional Certifications

a. Certified safety professional
b. Certified hazard control manager
c. Certified industrial hygienist
d. Safety professional/engineers. To ensure adequate safety resources to the employer, the safety practitioner/engineer shall provide the following consultation services which will consist of, but not be limited to the following.

i. Review the safety performance of the employer's organization, activities and operations.

ii. Appraise the mechanical hazards, power transmission apparatus, material handling, unsafe work methods, hazardous processes and hazardous environments.

iii. Advise and assist in the detection of occupational health hazards and exposure.

iv. Provide assistance to the employer in the development of employee safety training programs.

v. Make recommendations for appropriate safety corrective actions to be taken.

vi. Assist in the development of an employer's safety plan in compliance with LWC-15.

*These requirements apply to individuals who are making application to the director for placement on the list of private sector safety professionals/engineers for safety services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:78 (August 1985), repromulgated by the Department of Employment and Training, LR 17:177 (February 1991), amended by the Department of Labor, LR 19:754 (June 1993).

§905. Availability of Safety Services

A. The director shall maintain a list from the private sector of safety practitioners who meet the criteria as set forth in the definition of a "Safety Professional/Engineer" in Section §903. This list shall be made available to any Louisiana employer upon request.

B. In-house safety staff shall be a full-time employee(s) whose primary function within the organization, includes work of progressive importance and achievement towards accident prevention.

C. Insurance carrier safety staffs are full time employees whose primary functions include safety engineering services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:78 (August 1985), repromulgated by the Department of Employment and Training, LR 17:177 (February 1991), amended by the Department of Labor, LR 19:754 (June 1993)

§907. Classes and Components of Safety Plan

The two classes of operational safety plans and their minimum requirements shall be as follows:

A. Class "A" - The Class A Safety Plan is required when the employer's Workers' Compensation premium rate is over \$5 premium per \$100 of payroll for the major job classification or the job classification with the highest amount of payroll.

1. Management Policy Statement. This document shall be signed by the top executive of the company acknowledging management's responsibility and commitment to a safety plan and their intention to comply with all applicable local, state and federal safety requirements and appropriate industry standards. Management shall commit resources, responsibility and accountability to all levels of management and to each employee for the safety program.

2. Responsibility for Safety shall be defined in writing for executive and middle level operating management, supervisors, safety coordinator and employees.

3. Inspections shall be made of all areas of the work place at least monthly by a supervisor at the site. A written report (check list or narrative) is to be completed for each inspection, with this report to be retained for a period of one year. The report will be designed to cover the identification of recognized unsafe conditions, unsafe acts and any other items inherent in a particular job. The form will include a space to indicate any corrective action taken. The responsibility for the correction of defects is to be designated by management.

4. An accident investigation of any job related injury that requires a visit to a clinic or physician shall be initiated by the injured employee's supervisor as soon as possible on the shift the accident occurs. The accident investigation report will include information required to determine the basic causes of the accident by asking the questions who, what, where, who, when and how. Corrective action to be taken and/or recommended to prevent a recurrence of a similar accident will be implemented. Complex accidents may require technical assistance to ensure an accurate investigation, however, the injured employee's supervisor should be included on the investigation team.

The accident investigation report shall include information on the injured person, his or her job, what happened, basic causes, corrective actions required, the time frame to make corrections and who will be responsible for seeing that corrections are implemented.

5. Safety meetings shall be held by a supervisor with all of his/her employees on a monthly basis. A record will be kept showing the topics discussed, date of meeting and the names of the persons attending.

Safety meeting topics will be designed to instruct the employee on how to perform his job productively, efficiently and safely. Hazard recognition and hazard control procedures; selection, use and care of personal protective equipment; job procedures review and good housekeeping are examples of the information employees should receive at a safety meeting.

A review of the recent work area inspection results, the workers' compliance with safety procedures, and the accident investigations that occurred since the last safety meeting should be covered in the safety meeting.

6. Safety Rules. Management shall develop specific safety rules that apply to the operations being performed. The rules should be short, concise, simple, enforceable and stated in a positive manner. The safety rules are to be followed and adhered to by all management personnel and all employees. The rules shall be written with a copy provided to each employee and documented.

7. Training. Management shall implement a training program that will provide for orientation and training of each new employee, existing employees on a new job or when new equipment, processes or job procedures are initiated. The training provided will consist of, but not limited to, the correct work

procedures to follow, correct use of personal protective equipment required and where to get assistance when needed. This training should be accomplished by the employee's supervisor but may be done by a training specialist or an outside consultant such as a vendor or safety consultant. Training shall be provided to all persons in operating supervisory positions in: conducting safety meetings, conducting safety inspections, accident investigation, job planning, employee training methods, job analysis and leadership skills.

8. Record Keeping. In addition to OSHA logs which are retained for five years (federal requirement), each firm shall maintain, other safety records for a period of one year from the end of the year for which the records are maintained (state requirement). These will include inspection reports, accident investigation reports, minutes of safety meetings, training records and the LDET-WC-1071A Form.

9. First Aid. Management shall adopt and implement a first aid program which will provide for a trained first aid person at each job site on each shift. A first aid kit with proper supplies for the job exposures will be maintained and restocked as needed. Emergency phone numbers for medical services and key company personnel must also be maintained.

10. Emergency Preparedness Program

a. Management shall develop a written emergency preparedness plan to ensure to the extent possible the safety of all employees, visitors, contractors and vendors in the facility at the time of emergency situations; such as but not limited to natural disasters, fire, explosions, chemical spills and/or releases, bomb threats and medical emergencies. Emergency shutdown and startup procedures will be developed in industries having equipment that requires several steps to properly shutdown and secure. Employees shall be trained in these procedures to reduce the incidences of additional injuries, property damage and possible release of hazardous materials to the environment. Emergency plans shall comply with all governmental regulations, and state and local emergency response committee requirements.

b. All employees and contractors shall be trained in the facility's emergency plan. A facility training drill will be conducted at least annually to test the emergency plan. The emergency plan will be reviewed annually and revised as required. Employees shall be trained in the updated emergency plan. Monthly inspections of all access and egress aisles and doors will be conducted to determine that they are clear, unobstructed and operable. Evacuation routes shall be posted in all work areas showing primary and secondary routes for employees' evacuation to a safe predetermined location for a head count.

B. Class "B" - The Class B Safety Plan is required when the employer's Workers' Compensation premium rate is \$5 premium or less per \$100 of payroll for the Major Job Classification or the Job Classification with the highest amount of payroll. The minimum requirements are as follows:

1. Management Policy Statement. The same as Class "A".

2. Definition of Responsibility. The same as Class "A".
3. Inspections. The same as Class "A" except that inspections are required to be conducted quarterly.
4. Accident Investigation. The same as Class "A"
5. Safety Meetings. The same as Class "A" except that safety meetings are required to be conducted quarterly.
6. Safety Rules. The same as Class "A".
7. Training. The same as Class "A".
8. Record Keeping. The same as Class "A".
9. First Aid. The same as Class "A".
10. Emergency Preparedness Program. The same as Class "A".

C. Note: The above items listed for Class "A" and Class "B" plans are considered to be the minimum requirements and should be referred to as such. Obviously, we would all like to see such items as planning, cost containment procedures, setting of objectives, performance evaluations, incentive programs, etc. included in an employer's safety plan.

D. The minimum requirements are in no way intended to require the revision of existing company safety plans that have demonstrated proven performance in the past. Any company that has a plan which meets or exceeds these minimum requirements may submit it's plan to the director for review and acceptance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, LR 17:177 (February 1991), amended by the Department of Labor, LR 19:754 (June 1993).

§909. Submission of Safety Plan

Safety plans shall be submitted to the director upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:778 (August 1985), repromulgated by the Department of Employment and Training, LR 17:177 (February 1991), amended by the Department of Labor, LR 19:754 (June 1993).

§911. Employee Notice

It shall be in the employer's duty to advise employees and keep posted at some convenient and conspicuous point in his place of business a notice reading substantially as follows:

Louisiana Department of Labor, Office of Workers' Compensation, Box 94040, Baton Rouge, LA 70804-9040.

A. Notice of Compliance to Employees

1. You should report to your employer any occupational disease or personal injury that is work related, even if you deem it to be minor.

2. In case of occupational disease, all claims are barred unless the employee files a claim with his employer within six months of the date that:

- a. the disease manifests itself;
- b. the employee is disabled as a result of the disease;
- c. the employee knows or has reasonable grounds to believe that the

disease is occupationally related.

In case of death arising from an occupational disease, all claims are barred unless the dependent(s) files a claim with the deceased employee's employer within six months of:

- a. the date of death;
- b. the date the claimant has reasonable grounds to believe that the

death resulted from an occupational disease.

3. In case of personal injury or death arising out of an in the course of employment, an injured employee, or any person claiming to be entitled to compensation either as a claimant or as a representative of a person claiming to be entitled to compensation, must give notice to the employers within 30 days of the injury. If notice is not given within 30 days, no payments will be made under the law for such injury or death.

4. The above mentioned claims should be filed with the employer at the address shown below.

5. In the event you are injured, you are entitled to select a physician of your choice for treatment. The employer may choose another physician and arrange an examination which you would be required to attend.

6. In order to preserve your right to benefits under the Louisiana Workers' Compensation Law, you must file a formal claim with the Office of Workers' Compensation Administration within one year after the accident if payments have not been made or within one year after the last payment of weekly benefits.

7. This notice shall be given by delivering it or sending it by certified mail or return receipt requested to:

Employer Representative

Employer Name

Address

City

State and Zip

Inaccuracies in this notice of disease, injury, or death regarding the time, place, nature, or the cause of injury or otherwise will not be held against the employee unless the employer can show harm from being misled about the facts.

8. Failure to give notice may not harm the employee if the employer knew of the accident or if the employer was not prejudiced by the delay or failure to give notice. (Refer to Section 1304 and Section 1305 of the Title 23 of the Louisiana Revised Statutes for the exact wording.)

9. If you desire any information regarding your rights and entitlement to benefits as prescribed by law, you may call or write to the Office of Workers' Compensation Administration at the above address, or telephone (504) 342-7555 or toll-free (800) 824-4592.

10. This notice should be posted conspicuously in and about employer's place(s) of business.

11. If the employer is insured, then include the following:

a. Name and address of insurance company.

12. If the employer fails to keep such a notice posted, the time in which the notice of injury shall be given shall be extended to 12 months from the date of the injury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1302.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:78 (August 1985), repromulgated by the Department of Employment and Training, LR 17:178 (February 1991), amended by the Department of Labor, LR 19:754 (June 1993).

§913. Lost Time Injury Reports

Within 10 days of actual knowledge of injury to an employee which results in death or in lost time in excess of one week after the injury, the employer shall report same to the carrier, if any, and to the Office on form LDET-WC-1007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1306.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:78 (August 1985), repromulgated by the Department of Employment and Training, LR 17:179 (February 1991), amended by Department of Labor, LR 19:754 (June 1993).